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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,509	03/10/2005	David B Fogel	NatSel-PCT01US	9951
31070 7590 08/07/2007 TIMOTHY N. ELLIS, PATENT ATTORNEY 8680 VIA MALLORCA, SUITE D LA JOLLA, CA 92037			EXAMINER HOLMES, MICHAEL B	
			ART UNIT 2121	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/527,509

Applicant(s)

FOGEL, DAVID B

Examiner

Michael B. Holmes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 06282005.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.



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**Examiner's Detailed Office Action**

1. This Office Action is responsive to communication filed 03/10/2005.
2. Claims 1-63 have been examined.

**Information Disclosure Statement**

3. Applicant is respectfully remind of the Duty to disclose 37 C.F.R. 1.56 all pertinent information and material pertaining to the patentability of applicant's claimed invention, by continuing to submitting in a timely manner PTO-1449, Information Disclosure Statement (IDS) with the filing of applicant's of application or thereafter. Examiner acknowledges the submission of prior art on the part of Applicant.

**Drawings**

4. The formal drawings submitted on have been reviewed by the Office of Initial Patent Examination (OIPE) and/or the USPTO Office of Draftperson's Patent Drawings Review.

## Specification

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is required in correcting any errors of which applicant may become aware in the specification. Appropriate correction is required.

## Claim Interpretation

6. Office personnel are to give claims their "**broadest reasonable interpretation**" in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See \*also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. . . . The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). *see* MPEP § 2106

### Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Regarding claims 1-57 i.e., the claims are considered to be nonstatutory. Applicant's claim to a signal bearing medium is considered to be broad enough to include a transient carrier wave which is not fixed in a tangible medium readable by a machine. For this reason the claims are rejected under 35 U.S.C. § 101.

### Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 39, 44, 57 – 63 are rejected under 35 U.S.C. 102(b) as being anticipated by *Hutchison* (USPN 5,802,506).

Regarding claims 1, 39, 44, 57 – 63.

*Hutchison* discloses a signal bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method for identifying at least one property of data, the method comprising the following operations:

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receiving data; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

making assessments regarding the data; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

applying at least one behavioral operator; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

analyzing the data, wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

outputting results; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

receiving feedback concerning system performance; [see C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 45]

receiving feedback regarding the outputted results; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 45]

adjusting at least one parameter based on the feedback received concerning system performance, wherein the at least one parameter is a parameter of a machine learning method; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 45]

checking integrity of the data; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 45]

adjusting at least one behavioral operator based on the feedback received regarding the outputted results; [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 45] and

analyzing the data, wherein the operation of analyzing the data comprises generating at least one machine generated mathematical model to explain outcomes. [C 4, L 60, to C 5, L 55, FIG. 4, C 8, L 25 to C 9, L 33]

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## Correspondence Information

11. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Michael B. Holmes, who may be reached Monday through Friday, between 8:00 a.m. and 5:00 p.m. EST. or via telephone at (571) 272-3686 or facsimile transmission (571) 273-3686 or email [michael.holmesb@uspto.gov](mailto:michael.holmesb@uspto.gov).

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful the Examiner's Supervisor, Anthony Knight, may be reached at (571) 272-3687.

Hand-delivered responses should be delivered to the Receptionist @ (Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22313), located on the first floor of the south side of the Randolph Building.

Finally, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Moreover, status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) toll-free @ 1-866-217-9197.

**Michael B. Holmes**

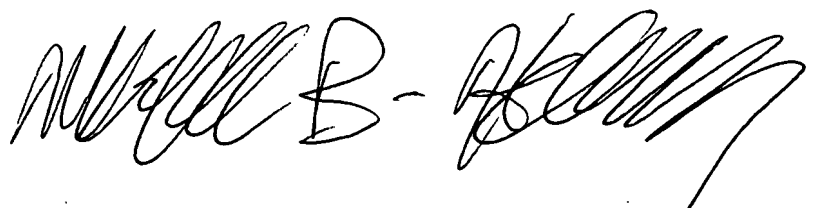
Patent Examiner

Artificial Intelligence

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United States Department of Commerce

Patent & Trademark Office

A handwritten signature in black ink, appearing to read 'Michael B. Holmes', is written over the typed name and title.